



General Assembly

Amendment

January Session, 2005

LCO No. **7854**

SB0109707854SD0

Offered by:

SEN. FONFARA, 1st Dist.

REP. FONTANA, 87th Dist.

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To: Subst. Senate Bill No. **1097**

File No. 214

Cal. No. 199

***"AN ACT CONCERNING REGULATION OF
TELECOMMUNICATIONS SERVICES."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 16-247f of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2005*):

5 (a) The department shall regulate the provision of
6 telecommunications services in the state in a manner designed to foster
7 competition and protect the public interest.

8 (b) Notwithstanding the provisions of section 16-19, [a
9 telecommunications service] the following telecommunications
10 services shall be deemed competitive services: (1) A
11 telecommunications service offered on or before July 1, 1994, by a
12 certified telecommunications provider and a wide area telephone

13 service, "800" service, centrex service or digital centrex service offered
14 by a telephone company, [shall be deemed a competitive service. Any]
15 (2) a telecommunications service offered to business customers by a
16 telephone company, (3) a home office service offered by a telephone
17 company, and (4) a telecommunications service provided by a
18 telephone company or its affiliate to a residential customer who
19 subscribes to two or more telephone company services, including basic
20 local exchange service, any vertical feature or interstate toll. Unless
21 reclassified pursuant to this section, any other service offered by a
22 telephone company on or before July 1, 1994, shall be deemed a
23 noncompetitive service, provided such initial classification shall not be
24 a factual finding that such service is noncompetitive. Notwithstanding
25 subdivision (3) of subsection (c) of section 16-247b, prior to January 1,
26 2010, a telephone company shall not obtain a waiver from the
27 department of the pricing standard set forth in subdivision (1) of
28 subsection (c) of section 16-247b for any service reclassified as
29 competitive pursuant to subdivision (2), (3) or (4) of this subsection.

30 (c) On petition, on its own motion, or in conjunction with a tariff
31 investigation conducted pursuant to subsection (f) of this section, after
32 notice and hearing, and within ninety days of receipt of a petition or its
33 motion or within the time period set forth in subsection (f) of this
34 section, as applicable, the department may reclassify a
35 telecommunications service as competitive, emerging competitive or
36 noncompetitive, in accordance with the degree of competition which
37 exists for that service in the marketplace, provided (1) a competitive
38 service shall not be reclassified as an emerging competitive service and
39 (2) the department may extend the period (A) before the end of the
40 ninety-day period and upon notifying all parties to the proceedings by
41 thirty days, or (B) in accordance with the provisions of subsection (f) of
42 this section, as applicable.

43 (d) In determining whether to reclassify a telecommunications
44 service, the department shall consider:

45 (1) The number, size and geographic distribution of certified

46 telecommunications providers of the service, provided the department
47 shall not reclassify any service as competitive if such service is
48 available only from a telephone company or an affiliate of a telephone
49 company that is a certified telecommunications provider;

50 (2) The availability of functionally equivalent services in the
51 relevant geographic area at competitive rates, terms and conditions,
52 including, but not limited to, services offered by certified
53 telecommunications providers, providers of commercial mobile radio
54 services, as defined in 47 CFR 20.3, voice over Internet protocol
55 providers and other services provided by means of alternative
56 technologies;

57 [(3) The financial viability of each company providing a functionally
58 equivalent service in the relevant market;]

59 [(4)] (3) The existence of barriers to entry into, or exit from, the
60 relevant market;

61 [(5) Other indicators of market power which the department deems
62 relevant, which may include, but not be limited to, market penetration
63 and the extent to which the provider of the service can sustain the
64 price for the service above the cost to the company of providing that
65 service;

66 (6) The extent to which other telecommunications companies must
67 rely upon the service to provide their telecommunications services;]

68 [(7)] (4) Other factors that may affect competition; and

69 [(8)] (5) Other factors that may affect the public interest.

70 (e) Each certified telecommunications provider and each telephone
71 company shall file with the department a new or amended tariff for
72 each competitive or emerging competitive intrastate
73 telecommunications service authorized pursuant to section 16-247c. A
74 tariff for a competitive service shall be effective on five days' written
75 notice to the department. A tariff for an emerging competitive service

76 shall be effective on twenty-one days' written notice to the department.
77 A tariff filing for a competitive or emerging competitive service shall
78 include (1) rates and charges which may consist of a maximum rate
79 and a minimum rate, (2) applicable terms and conditions, (3) a
80 statement of how the tariff will benefit the public interest, and (4) any
81 additional information required by the department. A telephone
82 company filing a tariff pursuant to this section shall include in said
83 tariff filing the information set forth in subdivisions (1) to (4), inclusive,
84 of this subsection, a complete explanation of how the company is
85 complying with the provisions of section 16-247b and, in a tariff filing
86 which declares a new service to be competitive or emerging
87 competitive, a statement addressing the considerations set forth in
88 subsection (d) of this section. If the department approves a tariff which
89 consists of a minimum rate and a maximum rate, the certified
90 telecommunications provider or telephone company may amend its
91 rates upon five days' written notice to the department and any notice
92 to customers which the department may require, provided the
93 amended rates are not greater than the approved maximum rate and
94 not less than the approved minimum rate. A promotional offering for a
95 previously approved competitive or emerging competitive tariffed
96 service or a service deemed competitive pursuant to section 16-247f
97 shall be effective on three business days' written notice to the
98 department.

99 (f) On petition or its own motion, the department may investigate a
100 tariff or any portion of a tariff, which investigation may include a
101 hearing. The department may suspend a tariff or any portion of a tariff
102 during such investigation. The investigation may include, but is not
103 limited to, an inquiry to determine whether the tariff is predatory,
104 deceptive, anticompetitive or violates the pricing standard set forth in
105 subdivision (1) of subsection (c) of section 16-247b. Not later than
106 seventy-five days after the effective date of the tariff, unless the party
107 filing the tariff, all statutory parties to the proceeding and the
108 department agree to a specific extension of time, the department shall
109 issue its decision, including whether to approve, modify or deny the

110 tariff. If the department determines that a tariff filed as a new service
111 is, in fact, a reclassification of an existing service, the department shall
112 review the tariff filing as a petition for reclassification in accordance
113 with the provisions of subsection (c) of this section.

114 (g) The provisions of this section shall not prohibit the department
115 from ordering different tariff filing procedures or effective dates for an
116 emerging competitive service, pursuant to a plan for an alternative
117 form of regulation of a telephone company approved by the
118 department in accordance with the provisions of section 16-247k.

119 Sec. 2. Subsection (a) of section 16-247a of the general statutes is
120 repealed and the following is substituted in lieu thereof (*Effective July*
121 *1, 2005*):

122 (a) Due to the following: Affordable, high quality
123 telecommunications services that meet the needs of individuals and
124 businesses in the state are necessary and vital to the welfare and
125 development of our society; the efficient provision of modern
126 telecommunications services by multiple providers will promote
127 economic development in the state; expanded employment
128 opportunities for residents of the state in the provision of
129 telecommunications services benefit the society and economy of the
130 state; and advanced telecommunications services enhance the delivery
131 of services by public and not-for-profit institutions, it is, therefore, the
132 goal of the state to (1) ensure the universal availability and accessibility
133 of high quality, affordable telecommunications services to all residents
134 and businesses in the state, (2) promote the development of effective
135 competition as a means of providing customers with the widest
136 possible choice of services, (3) utilize forms of regulation
137 commensurate with the level of competition in the relevant
138 telecommunications service market, (4) facilitate the efficient
139 development and deployment of an advanced telecommunications
140 infrastructure, including open networks with maximum
141 interoperability and interconnectivity, (5) encourage shared use of
142 existing facilities and cooperative development of new facilities where

143 legally possible, and technically and economically feasible, and (6)
144 ensure that providers of telecommunications services in the state
145 provide high quality customer service and high quality technical
146 service. The department shall implement the provisions of this section,
147 sections 16-1, 16-18a, 16-19, 16-19e, 16-22, 16-247b, 16-247c, 16-247e to
148 16-247i, inclusive, and 16-247k and subsection (e) of section 16-331 in
149 accordance with these goals. The department may enter into
150 memoranda of understanding with a third party in order to foster the
151 goals of this section.

152 Sec. 3. Subsection (a) of section 16-247b of the general statutes is
153 repealed and the following is substituted in lieu thereof (*Effective July*
154 *1, 2005*):

155 (a) On petition or its own motion, the department shall initiate a
156 proceeding to unbundle a telephone company's network, services and
157 functions that are used to provide telecommunications services and
158 which the department determines, after notice and hearing, are in the
159 public interest, are consistent with federal law and are technically
160 feasible of being tarified and offered separately or in combinations.
161 Any telecommunications services, functions and unbundled network
162 elements and any combination thereof shall be offered under tariff at
163 rates, terms and conditions that do not unreasonably discriminate
164 among actual and potential users and actual and potential providers of
165 such local network services. Notwithstanding this subsection, any
166 hybrid fiber coaxial facilities or hybrid fiber coaxial networks that are
167 owned by a telephone company are not subject to unbundling unless
168 specifically ordered by the Federal Communications Commission.

169 Sec. 4. Section 16-247i of the general statutes is repealed and the
170 following is substituted in lieu thereof (*Effective July 1, 2005*):

171 Not later than January 1, 1995, and annually thereafter, the
172 department shall submit a report to the General Assembly on the
173 status of telecommunications service and regulation in the state of
174 Connecticut. Such report shall include: (1) An analysis of universal

175 service and any changes therein; (2) an analysis of the impact, if any, of
 176 competition in telecommunications markets on the work force of the
 177 state and employment opportunities in the telecommunications
 178 industry in the state; (3) an analysis of the level of regulation which the
 179 public interest requires; (4) the status of implementing the provisions
 180 of sections 16-247a to 16-247c, inclusive, 16-247e to 16-247h, inclusive,
 181 16-247k and this section, including achieving each of the objectives of
 182 the goals set forth in section 16-247a; (5) the status of the development
 183 of competition for all telecommunications services; [and] (6) the status
 184 of the deployment of telecommunications infrastructure in the state;
 185 and (7) the status of the implementation of substitute senate bill 1097
 186 of the current session."

This act shall take effect as follows and shall amend the following sections:

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| Section 1 | <i>July 1, 2005</i> | 16-247f |
| Sec. 2 | <i>July 1, 2005</i> | 16-247a(a) |
| Sec. 3 | <i>July 1, 2005</i> | 16-247b(a) |
| Sec. 4 | <i>July 1, 2005</i> | 16-247i |